



# NOAA FISHERIES

## Habitat Conservation Alaska Region

# Frequently Asked Questions about Essential Fish Habitat (EFH)

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## **General Information about EFH**

### **1. How is Essential Fish Habitat authorized?**

In 1996 the U.S. Congress added new habitat conservation provisions to the [Magnuson-Stevens Fishery Conservation and Management Act \(MSA\)](#). The MSA mandates the identification of Essential Fish Habitat (EFH) for federally managed species and the consideration of recommendations to conserve and enhance the habitat necessary for these species to carry out their life cycles. Since 1996, the North Pacific Fishery Management Council and NMFS have described and identified EFH in each fishery management plan.

### **2. What is the definition of Essential Fish Habitat?**

'Essential Fish Habitat' means those waters and substrates necessary to fish for spawning, breeding, feeding or growing to maturity. 'Waters' include aquatic areas and their associated physical, chemical and biological properties. 'Substrate' includes sediment underlying the waters. 'Necessary' means the habitat required to support a sustainable fishery and the contributions of 'managed species' to a healthy ecosystem. 'Spawning, breeding, feeding, or growing to maturity' includes all habitat types utilized by a species throughout its life cycle. Additional detail can be found in the final rule implementing the EFH regulations, ([January 17, 2002; 67 FR 2343](#))

### **3. How is EFH described?**

EFH is described [using the best scientific information available](#) based on the general distribution of each species. EFH is identified with [text descriptions](#) and [delineated by maps](#) where sufficient information exists.

#### 4. What species in Alaska have EFH identified?

Many fish species exist in Alaska waters. However, EFH is identified for only those species managed under a federal [Fishery Management Plan](#) (FMP). EFH descriptions for Alaska may be found via the following links:

- [Arctic](#)
- [Bering Sea and Aleutian Island Groundfish](#)
- [Gulf of Alaska Groundfish](#)
- [Bering Sea/Aleutian Island King and Tanner Crab](#)
- [Alaska Scallops](#)
- [Alaska Stocks of Pacific Salmon](#)

#### 5. What is a Habitat Area of Particular Concern (HAPC)?

HAPCs are subsets of EFH. HAPCs highlight specific habitat areas with extremely important ecological functions and/or areas that are especially vulnerable to human-induced degradation.

- [HAPC site locations and area maps](#)

#### 6. How often is Essential Fish Habitat information updated?

EFH is updated every five years [[50 CFR 600\(a\)\(10\)](#)]. The EFH 5-year review is the mechanism (or roadmap) to ensure NOAA Fisheries and Fishery Management Councils incorporate the most recent and best science available into fishery management for EFH. A review of EFH occurs every 5-years for each FMP. Each review evaluates recent scientific information, assesses information gaps and research needs, and identifies whether any revisions to EFH are needed or suggested. Based on this review, federal fishery management plans are updated and EFH Conservation Recommendations are offered for those activities that may adversely affect EFH. Based on the 5-year review, federal fishery management plans are updated.

#### 7. Has EFH information changed?

Yes. EFH information underwent a thorough review in 2010 – [EFH 5-year review](#) (April 2010). EFH amendments were made to five of six federal fishery management plans. The 2010 modifications are modest and slightly refined EFH, better align the HAPC process schedule, and included updated research priorities. Importantly, the 2010 EFH 5-year review analyzed information from 2005 through 2010 and concluded that fishing activities on EFH remain non-adverse. The 2010 EFH 5-year review resulted in:

- Refined EFH Descriptions, e.g. the rockfish stock complex was split into two distinct stocks

- Review of fishing gear impacts on EFH, e.g. trawl gear modifications
- Identification of New HAPCs, e.g. six skate nursery areas in the Bering Sea
- Realignment of the HAPC review process to occur every 5 years, concurrent with EFH 5-Year Review

### **8. Who are the EFH contacts in Alaska?**

For more information contact the Habitat Conservation Division at (907) 586-7636 (SE Alaska) or (907) 271-5006 (rest of Alaska), email [HCD\\_Alaska@noaa.gov](mailto:HCD_Alaska@noaa.gov), or see the [list of HCD support staff and fisheries biologists' contact information](#)

## **EFH Consultation Information**

### **1. What triggers an EFH Consultation?**

An EFH Consultation is triggered when a federal agency, or its designee, determines that an action to be authorized, funded, or undertaken by the agency may adversely affect EFH.

### **2. What is the definition of an EFH 'adverse effect'?**

An 'adverse effect' is any impact that reduces the quality and/or quantity of EFH. Adverse effects may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components, if such modifications reduce the quality and/or quantity of EFH. Adverse effects to EFH may result from actions occurring within EFH or outside of EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

### **3. What are a few examples of actions that affect EFH?**

Common activities that may adversely affect EFH include fishing activities, port development, marine disposal of dredged materials, development of coastal wetlands, coastal transportation projects such as roadways, pollutant discharges, and certain resource extraction activities such as mining, logging, and oil and gas exploration. More detailed effect discussions are contained in reports: 1) [Evaluation of Fishing Activities That May Adversely Affect EFH](#) (EFH FEIS Appendix B 2004) and 2) [Impacts to EFH from Non-fishing Activities in Alaska](#) (November 2011).

### **4. What do federal agencies need to do?**

A federal action agency, or its official designee, must determine whether its actions may adversely affect EFH. If the agency determines that an action may adversely affect EFH, the action agency must prepare an EFH Assessment. If the action would not adversely affect EFH, then the agency should document this determination in its record.

## 5. What is in an EFH Assessment?

An EFH Assessment is an objective review of the impact an action may have on fish and their habitat. An EFH Assessment includes:

- a description of the action
- an analysis of the potential adverse effects of the action on EFH and the managed species
- the agency's conclusions regarding the effects of the action on EFH
- and proposed mitigation, if applicable

## 6. Is the State of Alaska required to consult on EFH?

No. State agencies are not required to consult with NOAA Fisheries on their activities. However, a state action that also requires a federal permit, license, or funding may require consultation between NOAA Fisheries and the federal action agency.

## 7. Are private landowners required to consult for projects on their land?

No. However, should a private action require a federal permit, EFH consultation between the permitting agency and NOAA Fisheries is required if the action adversely affects EFH. For example, for projects in areas identified as EFH, consultation between NOAA Fisheries and the Army Corps of Engineers will take place using the Clean Water Act section 404 permit process.

## 8. When does EFH consultation begin?

EFH consultation begins when a federal agency contacts NOAA Fisheries and requests review of an EFH Assessment.

## 9. Where does EFH Consultation Guidance exist?

The EFH regulations at [50 CFR 600 Subpart K](#) establish procedures for interagency coordination and consultation regarding actions that may adversely affect EFH. The preamble provides background information and addresses many issues raised through public comment. Federal agencies and the public may also refer to the [EFH Consultation Guidance](#) and [EFH Assessment Guidance](#).

## 10. Are there initial steps an action agency can take before contacting NOAA Fisheries?

Yes. On-line information sources are available to assist federal agencies and the public. [EFH Map Descriptions](#) depict the area of EFH for each life stage of fish managed under a Fishery Management Plan within the Gulf of Alaska, Bering Sea, and Aleutian Islands. [EFH Text Descriptions](#) identify EFH for each life stage of managed fish species. If these tools do not provide adequate information for you to identify EFH at a given location, please contact the Habitat Conservation Division at (907) 586-7636 (SE Alaska) or (907) 271-5006 (rest of Alaska), email [HCD\\_Alaska@noaa.gov](mailto:HCD_Alaska@noaa.gov).

## 11. Can EFH Assessments be combined with other federal consultations or environmental review processes?

Yes. NOAA Fisheries strongly encourages such efforts to streamline the consultation process. There are nearly 30 legal authorities and additional guidance that drive our habitat conservation

programs. Additional details describing the primary legal authorities can be found at [this website](#). EFH consultation should be consolidated, where appropriate, with interagency consultation, coordination and environmental review procedures required by other statutes such as the [National Environmental Policy Act \(NEPA\)](#), [Fish and Wildlife Coordination Act](#), [Clean Water Act](#), [Endangered Species Act \(ESA\)](#), and [Federal Power Act](#). EFH consultation requirements can be satisfied using existing review procedures if they provide NOAA Fisheries timely notification of actions that may adversely affect EFH and the notification meets the requirements of an EFH Assessment (see question 5).

**12. If EFH overlaps with ESA, are two individual consultations considered?**

No. Both ESA and EFH considerations can be handled under one unified consultation. Though EFH Assessments have their own information requirements, federal agencies are encouraged to incorporate an EFH Assessment into documents prepared for other purposes such as an ESA Biological Assessment or NEPA documents and public notices.

**13. After a federal agency consults, what must NOAA Fisheries do?**

NOAA Fisheries will provide conservation recommendations to the action agency within 30 days of the proposed action, or within existing review procedures.

**14. What is required of the federal action agency once it receives EFH conservation recommendations from NOAA Fisheries?**

Within 30 days after receiving a conservation recommendation from NOAA Fisheries, the federal agency is required to provide a detailed written response to NOAA Fisheries. This response must include a description of measures proposed for avoiding, mitigating, or offsetting the impact of the activity on EFH.

**15. Are federal agencies required to accept NOAA Fisheries conservation recommendation(s)?**

No. EFH recommendations are advisory and non-binding to the federal action agency. However, in the case of a response from a federal agency that is inconsistent with the NOAA Fisheries recommendations, the federal agency must explain in writing its reasons for not following the recommendations.

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